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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,876	02/05/2001	Hans-Georg Schwarz	Mo-6110/LeA 33,159	9065

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EXAMINER

SHAMEEM, GOLAM M

ART UNIT	PAPER NUMBER
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1626

DATE MAILED: 04/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/743,876

Applicant(s)

SCHWARZ ET AL.

Examiner

Golam M M Shameem

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If the period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 05 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1 ☐ Certified copies of the priority documents have been received.
- 2 ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3 ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claims 1-20, are pending in this application.

#### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

#### *Lack of Unity Requirement*

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Due to the numerous variables in the claims, e.g.  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n and Z etc. (and the provisos) and their widely divergent meanings, a precise listing of inventive groups cannot be made. The following groups are exemplary:

Group I claim(s) 1, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is non-heterocyclic group, classified in class 558 with plethora of subclasses.

Group II claim(s) 1-3, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is 4-membered heterocyclic grouping, classified in class 548 with plethora of subclasses.

Group III claim(s) 1-3, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is 5-membered heterocyclic grouping (nitrogen atom containing), classified in class 548 with plethora of subclasses.

Group IV claim(s) 1-3, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is 5-membered heterocyclic

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grouping (nitrogen, oxygen or sulphur atom containing), classified in class 548 with plethora of subclasses.

Group V claim(s) 1-3, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is 6-membered heterocyclic grouping (one nitrogen atom containing), classified in class 546 with plethora of subclasses.

Group VI claim(s) 1-3, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is 6-membered heterocyclic grouping (two or more nitrogen atom containing), classified in class 544 with plethora of subclasses.

Group VII claims 1-3, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is 6-membered heterocyclic grouping (two or more hetero atoms such as nitrogen, oxygen or sulphur atom containing), classified in class 544 with plethora of subclasses.

Group VIII claims 1-3, 7 and 11-15 drawn to a compound of the formula (1) wherein, all variables such as  $R^1$ ,  $R^2$ ,  $R^3$ ,  $R^4$ , A, m, n are as defined and Z is 7-membered heterocyclic grouping, classified in class 540 with plethora of subclasses.

Group IX claims 4-6 drawn to a compound of the formula wherein, all variables are as claimed, classified in class 548 with several subclasses.

Group X claims 8 and 16-17, drawn to a process for preparing a compound of the formula classified in class 548 or 558 with several subclasses.

Group XI claim 9 and 20 drawn to a compound of formula (III) classified in class 548 or 558 with several subclasses.

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Group XII claim 10, drawn to a method of controlling undesirable plants classified in class 540 with several subclasses.

Group XIII claim 18, drawn to a process for preparing a compound of the formula (II) classified in class 548 or 558 with several subclasses.

Group XIV claim 19, drawn to a process for preparing a compound of the formula (III) classified in class 548 or 558 with several subclasses.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted. Again, this list is not exhausted, as it would be impossible under the time constraints due to the sheer volume of subject matter instantly claimed. Therefore, applicant may choose to elect a single invention by identifying another specific embodiment not listed in the exemplary groups of the invention and examiner will endeavor to group the same. If applicant wishes to elect subject matter other than that identified in the above groups, applicant may elect a species and examiner will attempt to group it. The claims herein lack unity of invention under PCT Rule 13.1 and 13.2 since the compounds defined in the claims lack a significant structural element qualifying as the special technical feature that defines a contribution over the prior art. The compounds claimed contain a substituted or unsubstituted heterocyclic group, which is attached to core phenyl ring that does not define a contribution over the prior art. The substituents on the phenyl ring (such as Z) vary extensively and when taken as a whole result in vastly different compounds. Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unity of invention is considered to be proper. Additionally, the vastness of the claimed subject matter, the numerous provisos found in the claims, and the complications in

understanding the claimed subject matter imposes a burden on any examination of the claimed subject matter.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Golam Shameem, Ph.D. whose telephone number is 703-305-0116. The examiner can normally be reached on 6:30 AM to 5:00 PM Monday to Thursday.

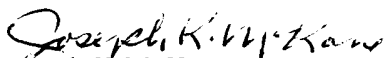
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on 703-308-4537. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7921 for regular communications and 703-308-7921 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

A facsimile center has been established. The hours of operation are Monday through 8:45AM to 4:45PM. The telecopier numbers for accessing the facsimile machine are (703) 308-4242, (703) 305-3592, and (703) 305-3014.

Golam M M Shameem, Ph.D.  
Patent Examiner  
Art Unit 1626, Group 1620  
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April 3, 2003

  
Joseph K McKane  
Supervisory Patent Examiner  
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